



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

July 2, 2008

CBCA 1204-RELO

In the Matter of RHONDA JONES

Rhonda Jones, Libby, MT, Claimant.

Anne M. Schmitt-Shoemaker, Deputy Director, Finance Center, Army Corps of Engineers, Department of the Army, Millington, TN, appearing for Department of the Army.

VERGILIO, Board Judge.

On May 29, 2008, the Board received a claim from Rhonda Jones (claimant), a civilian employee of the Department of Defense. The claimant seeks to reverse the determination by the Department of the Army (Government) that demands payment of \$780.34, plus an administrative fee and interest, arising from the claimant's permanent change of station from Alaska to Montana.

In dispute is the proper characterization of claimant's household goods (HHG), weighing 587 pounds, shipped from old to new duty station. The Government has concluded that the items were "unaccompanied baggage" with a weight allowance of 350 pounds for Government payment. The Government requires the claimant to pay a proportional share (237 pounds of excess weight divided by the total weight) of all shipping charges. The claimant contends that the Government is responsible for the entire amount because these items were not unaccompanied baggage, but all of her household goods, well within the 18,000 pound authorization for Government payment.

The Board determines that the claimant has supported her position. The Government incorrectly categorized the shipments.

Background

As directed in her travel authorization, the claimant contacted a transportation officer to arrange for the movement of her household goods. Under the authorization, the claimant's

reporting date at the new duty station was November 25, 2007. The claimant's household goods weighed 587 pounds, were placed in two crates, and were shipped together as one lot. Three companies were involved in the movement, each submitting an invoice to the Government, under a Government bill of lading. Invoiced work began on November 19; delivery to the new duty station occurred on December 17, 2007. One invoice/bill of lading describes the shipment as "unaccompanied baggage."

In a memorandum dated April 15, 2008, to the Army Finance Center, the Chief, Customer Service Branch, of the transportation office contacted by the claimant for the move, requests cancellation of the "erroneous debt." Statements in the memorandum are credible and uncontradicted. After specifying that the household goods totaled 587 pounds, the memorandum explains: "The origin transportation office was prudent in sending this small shipment by the most economical means, via DPM [direct procurement method] baggage, since it did not contain furniture items. Therefore, the Bill of Lading reflects 'unaccompanied baggage' the mode of shipment vice [sic] and entitlement."

Discussion

The Joint Travel Regulations (JTR) (regulations applicable to travel and transportation allowances of Department of Defense civilian personnel) define "unaccompanied baggage":

The part of a member's/employee's prescribed weight allowance of HHG that:

1. Is not carried free on a ticket used for personal travel,
2. Ordinarily is transported separately from the major bulk of HHG, and
3. Usually is transported by an expedited mode because it is needed immediately or soon after arrival at destination for interim housekeeping pending arrival of the major portion of HHG.

JTR App. A1. These regulations specify that an official must authorize/approve the transportation method of household goods. JTR C5160 (also, the unaccompanied baggage weight allowance is 350 pounds net weight for an individual employee).

The burden is on the claimant to establish the liability of the Government. Rule 401(c). The definition in the regulations of unaccompanied baggage requires analysis under the surrounding facts. The regulations do not make the invoice or bill of lading description conclusive on the issue; that is, the regulations do not equate usage of the phrase "unaccompanied baggage" on an invoice with that under the travel rules and regulations.

The belongings represent household goods but not unaccompanied baggage under the definition. The Government had the whole of claimant's household goods shipped together as one lot, under what is stated to be the most economical means. The belongings in question were not shipped separately (as there were no other household goods) or by an expedited method. Two of the three elements of the definition of unaccompanied baggage are not here satisfied.

Because the 587 pounds of shipped household goods come within the 18,000 pound limitation for Government liability, the Government (not the claimant) is responsible for the shipping charges in question. 5 U.S.C. § 5724 (2000); 41 CFR 302-7.2, -7.12. The Board reverses the determination of the Government. The claimant is not responsible for \$780.34, an administrative fee, or interest.

JOSEPH A. VERGILIO
Board Judge